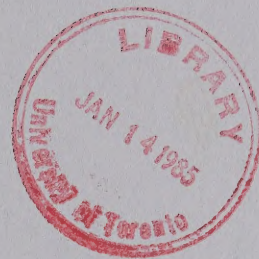


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NATIONAL ENERGY BOARD REASONS FOR DECISION

In the Matter of an Application Pursuant to
Section 59 of the National Energy Board Act

of

Gulf Canada Limited

December 1984

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REASONS FOR DECISION

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IN THE MATTER OF the National Energy Board Act
and the Regulations made thereunder; and

IN THE MATTER OF an application by Trans
Mountain Pipe Line Company Ltd. (hereinafter
called Trans Mountain) for an order under
Section 51 of the National Energy Board Act
for new tolls; filed with the Board under File
No. 1762-T4-8.

IN THE MATTER OF an application by Gulf Canada
Limited (hereinafter called Gulf) for an order
under Section 59 of the National Energy Board
Act; filed with the Board under File
No. 1755-G30-1.

HEARD at Ottawa, Ontario on 26, 27 and 28 November, 1984.

BEFORE:

J.R. Hardie	Presiding Member
R.B. Horner, Q.C.	Member
W.G. Stewart	Member

APPEARANCES:


L.D. Horne	Gulf Canada Limited
D.M. Goldie, Q.C.) G.A. Irving)	Trans Mountain Pipe Line Company Ltd.
R.S. O'Brien, Q.C.	Air Canada, Canadian Pacific Air Lines and Pacific Western Airlines Ltd.
Ms. P.A. Rowbotham	Canadian Petroleum Association
R. Hall	Chevron Canada Limited
J.E. Gallant	Imperial Oil Limited
R. Smith) K. Sinclair)	Interprovincial Pipe Line Limited
S. Reilly	Petro-Canada Incorporated
D.O. Sabey, Q.C.	Shell Canada Limited
G. Lowes	Trans-Northern Pipelines Inc.
G. Hayward	City of Kamloops
Mrs. L. Meagher) Mrs. D. Tremblay)	National Energy Board

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ABBREVIATIONS

"Gulf"	Gulf Canada Limited
"Trans Mountain"	Trans Mountain Pipe Line Company Ltd.
"NEB Act"	National Energy Board Act
"the Board"	National Energy Board
Braha	Braha Oil Limited
IPL	Interprovincial Pipe Line Limited
IOCO	Imperial Oil Limited's Vancouver Refinery
"m ³ /d"	cubic metres per day
"m ³ /h"	cubic metres per hour



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CHAPTER 1

INTRODUCTION

1.1 The Application

By Application dated 4 October 1984, ("the Application") Gulf Canada Limited ("Gulf") requested the National Energy Board ("the Board") to direct Trans Mountain Pipe Line Company Ltd. ("Trans Mountain") to receive transport and deliver, without delay, specified monthly volumes of gasoline and middle distillate from Edmonton, Alberta to Kamloops, British Columbia. The said volumes, covering the months of September 1984 to December 1985, were set out in a letter dated 6 September 1984 from Gulf to Trans Mountain, which was referenced in the Application and attached thereto.

In its Application, Gulf assured the Board that, despite Trans Mountain's concerns to the contrary, it was satisfied that existing facilities were adequate to accommodate the transmission requested, and that test batch runs had shown the quality of the product transported to be acceptable.

A letter dated 11 September 1984 from Trans Mountain to Gulf was also referenced in and attached to the Application. This letter stated that Trans Mountain was not prepared to ship products on a regularly scheduled basis, although it might wish to move further test shipments, the frequency thereof to be determined by Trans Mountain. The letter advised of Trans Mountain's intention to, with the approval of the Board, construct a common service products terminal at its Kamloops pump station site and to thereafter, probably some time during 1985, commence regular deliveries of product from Edmonton to the new terminal for all interested shippers, including Gulf.

In the Application Gulf argued that in light of the duties imposed on Trans Mountain by virtue of its status as a public utility and by virtue of the provisions of subsection 59(1) of the National Energy Board Act ("the NEB Act"), the Trans Mountain position outlined above was not an adequate or proper reaction to Gulf's request for regular product shipment.

By Board Order No. RH-4-84, as amended by AO-1-RH-4-84 and AO-2-RH-4-84, the Application was set down for public hearing and heard in Ottawa on 26, 27 and 28 November, 1984. Both Gulf and Trans Mountain presented evidence, witnesses and conducted cross-examination. Other parties, with the exception of Shell who also cross-examined some of Trans Mountain's witnesses, restricted their participation to attendance and final argument.

During the hearing, Gulf amended its Application by altering the schedule in the 6 September 1984 letter referred to above. In final argument, Gulf further amended its Application to request that, in addition to the direction originally sought, the Board direct Trans Mountain to undertake certain upgrading to its pipeline. Gulf stated, however, that in the alternative, it would be satisfied with only the original order sought.

1.2 Section 59 of the National Energy Board Act

Section 59 of the NEB Act, (with the exception of subsection 2 which deals with gas pipelines and is therefore not applicable in this case), reads as follows:

"59.(1) Subject to such exemptions, conditions or regulations as the Board may prescribe, a company operating a pipeline for the transmission of oil shall, according to its powers, without delay and with due care and diligence, receive, transport and deliver all oil offered for transmission by means of its pipeline.

59.(3) The Board may, if it considers it necessary or desirable to do so in the public interest, require a company operating a pipeline for the transmission of oil or for the transmission of gas to provide adequate and suitable facilities for the receiving, transmission and delivering of oil or gas, as the case may be, offered for transmission by means of its pipeline and adequate and suitable facilities for the storage of oil or gas and the junction of its pipeline with other facilities for the transmission of oil or the transmission of gas, if the Board finds that no undue burden will be placed upon the company thereby."

The issue to be decided by the Board in dealing with Gulf's Application is twofold: (1) does subsection 59(1), in the circumstances of this case impose on Trans Mountain the duty to comply with Gulf's request for regular shipment of petroleum products and consequently, if that duty is being shirked, should the Board use its powers under Section 12 of the NEB Act to enforce that duty; and (2) in the circumstances of this case, does the Board consider it necessary or desirable in the public interest to require Trans Mountain to extend its facilities to accommodate Gulf's request. The NEB Act does not give the Board any specific guidance in addressing these issues. It would appear reasonable to the Board to approach the problems posed by Gulf's Application from the following twofold perspective:

- (1) Trans Mountain should be under a prima facie duty to ship all oil tendered to it, including petroleum product, unless it can convince the Board that for some reason, such as a safety or capacity related one, it cannot; and
- (2) the Board should not order the extension of Trans Mountain's facilities unless it is convinced, again for some reason such as a safety or capacity related one, that existing facilities are inadequate to accommodate the volumes Gulf wishes to tender and that Trans Mountain has refused to provide such facilities, and then only if it considers it desirable in the greater public interest to so order.

Since the Gulf Application dealt only with the volumes up to the end of 1985, the Board did not consider it necessary to deal with any matters relating to the product terminal proposed by Trans Mountain's application of 26 November 1984.

CHAPTER 2

TECHNICAL CONSIDERATIONS

2.1 Trans Mountain's System Capacity

The Trans Mountain pipeline system has a current throughput capacity from 26 000 to 29 800 cubic metres per day (m^3/d) of light crude oil. The system has a maximum design pumping rate of 32 500 m^3/d with all pump stations fully operational. For this throughput, the looped sections are not required.

Trans Mountain agreed at the hearing that with the current throughputs of 20 000 m^3/d and with additional IOCO/Braha, Gulf and Exchange volumes which represent a potential throughput of 25 600 m^3/d , there is adequate line capacity available.

Although the Trans Mountain line is capable of transmitting the refined products through the line at rates of up to 1 350 cubic metres per hour (m^3/h) and Gulf is capable of receiving deliveries up to 1 500 m^3/h , for reasons of safety the rate for the delivery of refined products from the mainline to the Gulf facilities is limited to 800 m^3/h . These limitations result from the removal of Trans Mountain's over-pressure system from the line. For further details see Section 2.2, Safety.

In addition, the Board is satisfied that Gulf can deliver the refined products to Trans Mountain's Edmonton pump station at the required rate.

2.2 Safety

Trans Mountain indicated in evidence that in order to make deliveries of refined products to the Gulf facilities at Kamloops utilizing the facilities used for the test batches, it was necessary to close the main line valve located between the Gulf take-off point and its Kamloops pump station. Trans Mountain emphasized that the closure of the valve isolates the line from the pressure relief valve located at the Kamloops station.

Isolation of the pressure relief system from the main line requires Trans Mountain staff to be cautious during refined product deliveries to Gulf to prevent pressure surges in the line. Inadvertent operation of the main line valve, or a valve on the Gulf transfer line while making deliveries at high rates of flow could result in the rupture of the line. This poses a safety hazard to operating staff and an environmental threat to the Thompson River.

Gulf agreed that, unlike previous deliveries of crude oil to its Kamloops facilities along the current route, delivery of refined products requires that the main line valve be closed, and that consequently neither the Trans Mountain main line nor the Gulf high pressure facilities were protected from high pressure surges. Consequently, Gulf offered to provide a high pressure relief valve at its Kamloops facilities.

Since the test batches have been delivered safely and on the basis of the evidence presented, the Board is satisfied that, if Trans Mountain continues to exercise the same care and attention as for the test batches, regular deliveries can be made with safety for the period requested in the application.

2.3 Alternate Route

In evidence Trans Mountain indicated, for reasons of safety and reduction in batch contamination, that in the event that the Gulf Application should be successful its preferred route was to receive the refined products at its Kamloops facilities and to complete the delivery of the refined products to the Gulf facilities through an existing 219 millimetre gravity fed low-pressure transfer line. As this route does not require closing of the main line valve, the pressure relief valve remains in the circuit to protect the Trans Mountain line. However, due to the limited flow rate of the 8-inch transfer line, use of the route requires that dedicated refined product tanks be available at Trans Mountain's station.

In testimony, Gulf indicated that due to the possibility of it moving four types of products through the system, Trans Mountain had insufficient tankage available at its Kamloops facilities. In addition, Gulf felt that use of the proposed Trans Mountain alternate route would result in needless double handling of the refined products by first requiring the diversion of the products into Trans Mountain's storage tanks followed by delivery of the products to Gulf through a 219 millimetre gravity fed pipeline. Gulf claimed this would increase the possibility of contamination of the products, increase the handling costs and expose the products to unforeseen misadventures during operations on the alternate route.

The Board is satisfied that the alternate route offers a safe and viable alternative to the route used to deliver the test batches which are discussed in Section 2.2, Safety.

2.4 Contamination

Trans Mountain indicated that while Gulf may be satisfied with the contamination level of the refined products tests neither Trans Mountain nor other potential shippers were satisfied. However, there were no witnesses or evidence from the other potential shippers to confirm that they were dissatisfied with contamination and if they were, whether the dissatisfaction was with the level of contamination at Kamloops or Burnaby. Trans Mountain stated that substantial physical changes and additional equipment at each of its stations, as well as changes to operating procedures were required to reduce contamination to acceptable levels.

In addition to the physical changes, Trans Mountain indicated that due to operational difficulties, separators inserted in the line to reduce contamination could in fact be contributing to the contamination of the batches. This in Trans Mountain's view justified further additional tests.

Trans Mountain further indicated that due to the topography of the Kamloops location that additional contamination could result from backflow of interface material into the Gulf facilities. For this reason, Trans Mountain felt that the refined products should be first delivered into its storage tanks dedicated to refined products. See the discussions in Section 2.3 above.

2.5 Capability of Existing Trans Mountain Facilities

It is clear from both submitted evidence and direct testimony given during the hearing, that the existing Trans Mountain pipeline facilities, modified where necessary by temporary connecting installations, have been demonstrated to be

capable of carrying batches of refined products from Edmonton to the Gulf terminal in Kamloops in a condition acceptable to the shipper.

It is also evident that deliveries of the refined products test batches were not completed using normal operating procedures. Trans Mountain operating staff were required to follow non-standard procedures, special directives and to operate under close supervision to ensure safe operation of the pipeline and to minimize contamination of refined products.

Both Gulf and Trans Mountain agree that, to make routine deliveries of both refined products and crude oil without the need for extraordinary supervision, extensive changes and additions to the pipeline and new operating procedures are required.

CHAPTER 3

DECISION

It is the view of the Board that Trans Mountain has the required capacity and, with due care and careful attention to operational procedures, can safely deliver refined products with acceptable levels of contamination through the current Trans Mountain system to Kamloops. The Board has issued Order No. MO-56-84 to this effect. However, the current facilities should only be used until changes can be made to the system to further reduce batch contamination and to ensure that over-pressure relief mechanisms are provided at all times.

The Board recognizes that the movement of refined products will cause some inconvenience to Trans Mountain until these additions and modifications are made. However, as indicated by a Trans Mountain witness, other additions and modifications to facilities and operating procedures may become apparent as experience is gained in product movements.

The Board wishes to stress that its decision on Gulf's Application should not be taken in any way as a prejudgement of the Board's upcoming consideration of Trans Mountain's recently filed application for the construction of refined product facilities at its Kamloops pump station site.

CHAPTER 4

TOLLS AND TARIFFS

In response to a Board information request, Gulf Canada Limited submitted a proposed refined product toll design methodology, and the Rules and Regulations governing the transportation of refined products based on the Interprovincial Pipe Line Limited (IPL) toll design methodology and Rules and Regulations.

Trans Mountain's position was that the proposal, based on the IPL tariff, was not acceptable since IPL's tariff is for the movement of refined product in a line which is used to transport only clean products while in Trans Mountain's pipeline the refined product has to be batched with crude oil. Trans Mountain proposed that the movement of refined products could be accommodated with the continuation of refined product shipments as a test shipment under the existing tariff; however, some minor amendments to the Rules and Regulations would be required. It was not yet ready to address the specific amendments but acknowledged that some changes would be needed including a change in the definition of petroleum products. Trans Mountain further stated that the additional costs for the movement of refined products should be rolled into the total cost of service and the combined throughput be used to derive tolls for refined products.

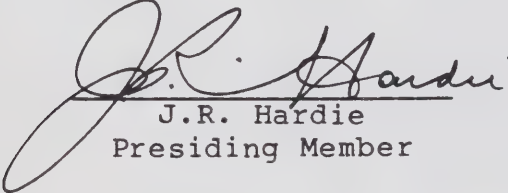
Other intervenors did not address the Rules and Regulations, but with respect to the appropriate refined product toll their position as well as Gulf's was that the incremental costs associated with the transportation of refined products should be borne by the shippers of these products and not included in the crude oil tolls.

Order No. MO-56-84 requires that Trans Mountain file by 12 December 1984 with the Board, and serve on the Trans Mountain shippers and interested parties in RH-4-84, a revised tariff containing new tolls and the Rules and Regulations required for the movement of refined products. Gulf Canada Limited, Trans Mountain's other shippers and other interested parties of record shall, no later than 17 December 1984, file with the Board and with Trans Mountain, any comments they may have on the tariffs filed by Trans Mountain.

CHAPTER 5

DISPOSITION

The foregoing, together with Board Order No. MO-56-84, constitutes our Reasons for Decision and our Decision on the Application by Gulf Canada Limited pursuant to Section 59 of the National Energy Board Act.



J.R. Hardie
Presiding Member



R.B. Horner, Q.C.
Member



W.G. Stewart
Member

NATIONAL ENERGY BOARD



CANADA
MO-56-84

OFFICE NATIONAL DE L'ÉNERGIE

IN THE MATTER OF the National Energy Board Act
and the Regulations made thereunder; and

IN THE MATTER OF an application by Gulf Canada
Limited (hereinafter called "Gulf") for an order
under section 59 of the National Energy Board
Act; filed with the Board under file no.
1755-G30-1.

B E F O R E the Board on Tuesday, 4 December 1984.

WHEREAS an application dated 4 October 1984, as amended
on 21 November 1984, has been made by Gulf for an order directing
Trans Mountain Pipe Line Company Ltd. (hereinafter called "Trans
Mountain") to receive, transport and deliver certain specific
volumes of petroleum products through its pipeline from Edmonton,
Alberta to Kamloops, British Columbia during the months of
December 1984 to December 1985 inclusive;

AND WHEREAS the Board has heard the evidence and
submissions of Gulf, Trans Mountain and all interested parties
with respect to the Gulf application at a public hearing which
commenced in Ottawa, Ontario on 26 November 1984;

AND WHEREAS the Board is of the opinion that, in the
circumstances of this case, it is Trans Mountain's duty to
receive, transport and deliver via its pipeline, from Edmonton to
Kamloops, gasolines and distillates offered for transmission by
Gulf during the year 1985;

IT IS ORDERED THAT, pursuant to section 12 and section 59 of the
National Energy Board Act:

1. Subject to paragraph 2, Trans Mountain shall, commencing
during January 1985 and, with due care and diligence, receive,

- 2 -

transport and deliver, via its pipeline, from Edmonton to Kamloops, gasolines and distillates offered for transmission by Gulf;

2. For the purposes of paragraph 1, Trans Mountain shall be under no obligation to receive, transport and deliver volumes in excess of those specified for each month in Appendix "A" to this order, or for a period extending beyond 31 December 1985;

3. Trans Mountain shall, no later than 12 December 1984, file with the Board, its shippers and the parties of record in the hearing held pursuant to Board Order RH-4-84 a revised tariff containing tolls for the services ordered by this order and including revisions to the tariff's "rules and regulations" made necessary by this order;

4. Gulf, Trans Mountain's other shippers and the other said parties of record shall, no later than 17 December 1984, file with the Board and with Trans Mountain any comments they may have on the tariff filed pursuant to paragraph 3;

5. Notwithstanding the filing of the new tariff and tolls, the same shall remain suspended and of no effect until specifically approved in writing by the Board.

NATIONAL ENERGY BOARD



G. Yorke Slader,
Secretary

MO-56-84

Appendix "A" to
Order No. MO-56-84

APPENDIX "A"

VOLUME IN
MEGALITRES

JANUARY 1985	26.5
FEBRUARY	30.0
MARCH	40.0
APRIL	43.2
MAY	50.5
JUNE	43.3
JULY	55.3
AUGUST	55.3
SEPTEMBER	49.5
OCTOBER	49.3
NOVEMBER	54.4
DECEMBER	<u>51.6</u>
	548.9

